

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Thomas A. Eames, Roberta L. Eames, and
Tammy Eames, on behalf themselves and
all others similarly situated,

Plaintiffs

v.

Nationwide Mutual Insurance Company,

Defendant

CIVIL ACTION NO. 04-1324-KAJ

DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT

Defendant, Nationwide Mutual Insurance Company ("Nationwide"), pursuant to Rule 12(b)(6) and Rule 9(b) of the Federal Rules of Civil Procedure, moves to dismiss Plaintiffs' Amended Complaint with prejudice for the following reasons:

1. Plaintiffs fail to plead fraud with the required, Court-ordered particularity;
2. Plaintiffs fail to plead harm as required by the Court;
3. Plaintiffs' attempted claims are barred by the statute of limitations;
4. Plaintiffs fail to state a claim for civil conspiracy; and
5. Plaintiff Tammy Eames (who is not a policyholder) has no standing.

The grounds and support for this Motion are set forth in Nationwide's Memorandum in Support of this Motion to Dismiss Plaintiffs' Amended Complaint ("Nationwide's Supporting

Memorandum”). Nationwide’s Supporting Memorandum has been filed together with, and is incorporated as part of, this Motion.

Respectfully submitted,

SWARTZ CAMPBELL LLC

/s/Nicholas E. Skiles, Esquire

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